

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 25857 PERMIT 18057 LICENSE 11226

ORDER DIRECTING THE DELETION OF CONDITION
LIMITING DIVERSION OF WATER

WHEREAS:

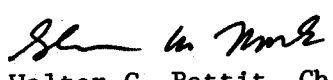
1. License 11226 was issued to Alberta W. Lewallen and was filed with the County Recorder of San Joaquin County on July 12, 1982.
2. This license contains a condition prohibiting diversion of water when supplemental project water is being released to satisfy inbasin entitlement. Board Decision 1594 ordered that this term be deleted, however, due to an administrative oversight, it was carried over from the permit into the license.
3. The license condition restricting diversion of water when satisfaction of inbasin entitlements require release of supplemental project water, should be deleted pursuant to Decision 1594.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The following condition is deleted from License 11226:

"No diversion is authorized by this license when satisfaction of inbasin entitlements requires release of supplemental project water. The Board shall advise licensee of the probability of imminent curtailment of diversions as far in advance as practicable based on anticipated requirements for supplemental project water provided by the Central Valley project or the State Water Project operators. The Board shall notify the licensee of curtailment of diversions when it finds that no water is available for diversion under this license.

Dated: **SEPTEMBER 19 1988**

for 
Walter G. Pettit, Chief
Division of Water Rights

THIS LICENSE IS SUBJECT TO THE CONTINUING AUTHORITY OF THE STATE WATER RESOURCES CONTROL BOARD TO REDUCE THE AMOUNT OF WATER NAMED IN THE LICENSE UPON A FINDING BY THE BOARD THAT THE AMOUNT IS IN EXCESS OF THAT REASONABLY NEEDED TO BE HELD IN STORAGE FOR THE AUTHORIZED USES. NO ACTION WILL BE TAKEN BY THE BOARD WITHOUT PRIOR NOTICE TO THE OWNER AND AN OPPORTUNITY FOR HEARING.

LICENSEE SHALL, WHEN REQUIRED BY THE STATE WATER RESOURCES CONTROL BOARD, INSTALL AND MAINTAIN AN OUTLET PIPE OF ADEQUATE CAPACITY IN HIS DAM AS NEAR AS PRACTICABLE TO THE BOTTOM OF THE NATURAL STREAM CHANNEL, OR PROVIDE OTHER MEANS SATISFACTORY TO THE STATE WATER RESOURCES CONTROL BOARD, IN ORDER THAT WATER ENTERING THE RESERVOIR WHICH IS NOT AUTHORIZED FOR APPROPRIATION UNDER THIS LICENSE MAY BE RELEASED.

THIS LICENSE IS SUBJECT TO PRIOR RIGHTS. LICENSEE IS PUT ON NOTICE THAT DURING SOME YEARS WATER WILL NOT BE AVAILABLE FOR DIVERSION DURING PORTIONS OR ALL OF THE SEASON AUTHORIZED HEREIN. THE ANNUAL VARIATIONS IN DEMANDS AND HYDROLOGIC CONDITIONS IN THE CALAVERAS RIVER BASIN ARE SUCH THAT IN ANY YEAR OF WATER SCARCITY THE SEASON OF DIVERSION AUTHORIZED HEREIN MAY BE REDUCED OR COMPLETELY ELIMINATED ON ORDER OF THIS BOARD MADE AFTER NOTICE TO INTERESTED PARTIES AND OPPORTUNITY FOR HEARING.

NO DIVERSION IS AUTHORIZED BY THIS LICENSE WHEN SATISFACTION OF INBASIN ENTITLEMENTS REQUIRES RELEASE OF SUPPLEMENTAL PROJECT WATER. THE BOARD SHALL ADVISE LICENSEE OF THE PROBABILITY OF IMMINENT CURTAILMENT OF DIVERSIONS AS FAR IN ADVANCE AS PRACTICABLE BASED ON ANTICIPATED REQUIREMENTS FOR SUPPLEMENTAL PROJECT WATER PROVIDED BY THE CENTRAL VALLEY PROJECT OR THE STATE WATER PROJECT OPERATORS. THE BOARD SHALL NOTIFY THE LICENSEE OF CURTAILMENT OF DIVERSIONS WHEN IT FINDS THAT NO WATER IS AVAILABLE FOR DIVERSION UNDER THIS LICENSE.

FOR THE PURPOSE OF INITIALLY DETERMINING SUPPLEMENTAL PROJECT WATER REQUIRED FOR INBASIN ENTITLEMENTS, THE FOLLOWING DEFINITIONS SHALL APPLY:

- A. INBASIN ENTITLEMENTS ARE DEFINED AS ALL RIGHTS TO DIVERT WATER FROM STREAMS TRIBUTARY TO THE SACRAMENTO-SAN JOAQUIN DELTA OR THE DELTA FOR USE WITHIN THE RESPECTIVE BASINS OF ORIGIN OR THE LEGAL DELTA, UNAVOIDABLE NATURAL REQUIREMENTS FOR RIPARIAN HABITAT AND CONVEYANCE LOSSES, AND FLOWS REQUIRED BY THE BOARD FOR MAINTENANCE OF WATER QUALITY AND FISH AND WILDLIFE. EXPORT DIVERSIONS AND PROJECT CARRIAGE WATER ARE SPECIFICALLY EXCLUDED FROM THE DEFINITION OF INBASIN ENTITLEMENTS.
- B. SUPPLEMENTAL PROJECT WATER IS DEFINED AS WATER IMPORTED TO THE BASIN BY THE PROJECTS, AND WATER RELEASED FROM PROJECT STORAGE, WHICH IS IN EXCESS OF WATER REQUIRED FOR PROJECT EXPORT AND PROJECT INBASIN DELIVERIES.

NOTICE OF CURTAILMENT OF DIVERSION UNDER THIS TERM SHALL NOT BE ISSUED BY THE BOARD UNTIL:

1. PROJECT OPERATORS JOINTLY DEVELOP AND DEMONSTRATE TO THE BOARD A REASONABLY ACCURATE METHOD OF CALCULATING SUPPLEMENTAL PROJECT WATER.
2. THE BOARD HAS APPROVED THE METHOD OF CALCULATING SUPPLEMENTAL PROJECT WATER AND HAS CONFIRMED THE DEFINITIONS OF INBASIN ENTITLEMENTS AND SUPPLEMENTAL PROJECT WATER AFTER PUBLIC HEARING.
3. THE PROJECT OPERATORS HAVE NOTIFIED THE BOARD THAT THE RELEASE OF SUPPLEMENTAL PROJECT WATER IS IMMINENT OR HAS OCCURRED. SUCH NOTICE SHOULD INCLUDE THE TIMES AND AMOUNTS OF RELEASES OR POTENTIAL RELEASES.
4. THE BOARD FINDS THAT SUPPLEMENTAL PROJECT WATER HAS BEEN RELEASED OR WILL BE RELEASED.



STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

APPLICATION 25857
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PERMIT 18057

LICENSE 11226

THIS IS TO CERTIFY, That ALBERTA W. LEWALLEN
P. O. BOX 682, LINDEN, CALIFORNIA 95236

HAS made proof as of MAY 7, 1982 (the date of inspection)
to the satisfaction of the State Water Resources Control Board of a right to the use of the water of
DUCK CREEK IN SAN JOAQUIN COUNTY

tributary to CALAVERAS RIVER THENCE SAN JOAQUIN RIVER

for the purpose of STOCKWATERING AND WILDLIFE ENHANCEMENT USES
under Permit 18057 of the Board and that the right to the use of this water has been perfected
in accordance with the laws of California, the Regulations of the Board and the permit terms; that the
priority of this right dates from OCTOBER 24, 1978 and that the amount of water to which
this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated
purposes and shall not exceed NINETEEN (19) ACRE-FEET PER ANNUM, TO BE COLLECTED FROM
NOVEMBER 1 OF EACH YEAR TO MAY 1 OF THE SUCCEEDING YEAR.

AFTER THE INITIAL FILLING OF THE RESERVOIR, LICENSEE'S RIGHT UNDER THIS
LICENSE EXTENDS ONLY TO WATER NECESSARY TO KEEP THE STORAGE RESERVOIR FULL BY
REPLACING WATER BENEFICIALLY USED AND WATER LOST BY EVAPORATION AND SEEPAGE, AND
TO REFILL IF EMPTIED FOR NECESSARY MAINTENANCE OR REPAIR.

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

SOUTH 1,600 FEET AND EAST 3,300 FEET FROM NW CORNER OF SECTION 17, T3N, R9E, MDB&M,
BEING WITHIN SW1/4 OF NE1/4 OF SAID SECTION 17.

A DESCRIPTION OF LANDS OR THE PLACE WHERE
SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

AT HORACE RESERVOIR WITHIN W1/2 OF NE1/4 AND SE1/4 OF NW1/4 OF SECTION 17, T3N,
R9E, MDB&M, AS SHOWN ON MAP ON FILE WITH THE STATE WATER RESOURCES CONTROL BOARD.

THE QUANTITY OF WATER DIVERTED UNDER THIS LICENSE IS SUBJECT TO MODIFICATION BY
THE STATE WATER RESOURCES CONTROL BOARD, IF, AFTER NOTICE TO THE LICENSEE AND AN
OPPORTUNITY FOR HEARING, THE BOARD FINDS THAT SUCH MODIFICATION IS NECESSARY TO MEET
WATER QUALITY OBJECTIVES IN WATER QUALITY CONTROL PLANS WHICH HAVE BEEN OR HEREAFTER
MAY BE ESTABLISHED OR MODIFIED PURSUANT TO DIVISION 7 OF THE WATER CODE. NO ACTION
WILL BE TAKEN PURSUANT TO THIS PARAGRAPH UNLESS THE BOARD FINDS THAT (1) ADEQUATE
WASTE DISCHARGE REQUIREMENTS HAVE BEEN PRESCRIBED AND ARE IN EFFECT WITH RESPECT TO
ALL WASTE DISCHARGES WHICH HAVE ANY SUBSTANTIAL EFFECT UPON WATER QUALITY IN THE
AREA INVOLVED, AND (2) THE WATER QUALITY OBJECTIVES CANNOT BE ACHIEVED SOLELY THROUGH
THE CONTROL OF WASTE DISCHARGES.

Licensee shall allow representatives of the Board and other parties, as may be authorized from time to time by the Board, reasonable access to project works to determine compliance with the terms of this license.

Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

This continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to minimizing waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: JUNE 21 1982

STATE WATER RESOURCES CONTROL BOARD

L. D. Johnson
for Chief, Division of Water Rights